IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 20TH FEBRUARY 2007 / 1ST PHALGUNA 1928

Crl.Rev.Pet.No. 748 of 2007()

CRA.67/2002 of I ADDL. SESSIONS COURT, TRIVANDRUM
CC.598/1998 of JUDL. MAGISTRATE OF FIRST CLASS COURT-II,NEYYATTINKARA

.....

REVN. PETITIONER/Appellant/Accused:

K.V. AYYAPPAN, S/O. KUMARAVEL ASARI,
KANNAN JWELLERY, POST OFFICE JUNCTION,
PARASSALA, FROM KUMARA MANDIRAM PUTHEN VEEDU,
KARUMANOOR DESOM, PARASSALA VILLAGE.

BY ADV. SRI.WILSON URMESE

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:

---

1. RABANEESE DHARKAN, S/O. MUHAMMED KANNU,
NADUTHOTTAM PUTHAN VEEDU,
INCHIVILA, MURIYANKARA DESOM,
PARASSALA VILLAGE.

2. STATE OF KERALA REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. C.M. KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 20/02/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R. UDAYABHANU, J.

CRL.R.P. NO. 748 of 2007

Dated 20th day of February, 2007

ORDER

The revision petitioner stands convicted for the offence under Section 138 of the N.I. Act and sentenced, as modified by the appellate court, to undergo Simple Imprisonment till the rising of the court and to pay compensation of Rs. 85,000/- and in default, to undergo Simple Imprisonment for two months vide Sec. 357 (3) Cr.P.C. The findings as to the guilt of the accused/revision petitioner is concurrent. The contention of the revision petitioner is based on the alleged admission of PW1 that the details mentioned in Ext.D2 reply notice is correct. In the reply notice produced by the revision petitioner, he had contended that the cheque was handed over to another person as security towards a different transaction. Both the courts have considered this aspect. The appellate court has considered the contention of the accused in detail and found that the answer was obtained just showing Ext.D2 reply notice. The appellate court has extracted the portion of the deposition of PW1. It can be

seen that PW1 has admitted the correctness of the recitals in Ext.D2 under a mistaken impression that it is the lawyer notice sent by him. It is only on account of ingenuity of the counsel concerned that PW1 was trapped to answer like that.

2. In the circumstances, I find no reason to interefere with the findings of the courts below. The revision petition is liable to be dismissed at the threshold. The findings of the courts below are affirmed. The revision petitioner is granted five months time to pay the amount of compensation. He shall appear before the Judicial First Class Magistrate Court, Neyyattinkara on 20.7.2007 to receive sentence.

The revision petition is disposed of as above.

K.R.UDAYABHANU,JUDGE.

mma/-

//True copy//

P.A. To Judge